

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0231-MSW-E TCEQ ID: RN105194641 CASE NO.: 35352**  
**RESPONDENT NAME: ERNESTO SILLER**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input checked="" type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<input type="checkbox"/> <b>AGRICULTURE</b>	<input type="checkbox"/> <b>USED OIL</b>	<input type="checkbox"/> <b>WATER RIGHTS</b>

**SITE WHERE VIOLATION(S) OCCURRED:** Approximately one mile south of the intersection of Farm-to-Market Road 1847 and State Highway 100, Los Fresnos, Cameron County

**TYPE OF OPERATION:** Unauthorized municipal solid waste disposal site

**SMALL BUSINESS:** ☒ Yes    ☐ No

**OTHER SIGNIFICANT MATTERS:** One complaint was received, alleging that the Respondent was allowing construction and demolition debris to be dumped at the site. There is no record of additional pending enforcement actions regarding this facility.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired November 4, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney:** Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  
**TCEQ Enforcement Coordinator:** Mr. John Shelton, Waste Enforcement Section, MC 128, (512) 239-2563  
**TCEQ Regional Contact:** Mr. Jaime Garza, Harlingen Regional Office, MC R-15, (456) 430-6030  
**Respondent:** Mr. Ernesto Siller, 375 Sunshine Road, Brownsville, Texas 78521-1608  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>  March 9, 2007</p> <p><b>Date of Investigation Relating to this Case:</b>  November 19, 2007</p> <p><b>Date of NOE Relating to this Case:</b>  January 15, 2008</p> <p><b>Background Facts:</b>  The case was referred to the Litigation Division on February 27, 2008. The Respondent signed the Agreed Order on August 14, 2008. The full penalty payment was received September 9, 2008.</p> <p><b>Current Compliance Status:</b>  The Respondent no longer owns the Site. Since the date the Order was signed, the TCEQ Regional Office verified that the new owner removed all of the unauthorized waste and disposed of it at an authorized facility.</p> <p><b>MSW:</b>  Failed to prevent the disposal of municipal solid waste at an unauthorized facility [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p><b>Total Assessed:</b> \$1,050</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$1,050</p> <p>The Respondent paid the administrative penalty in full.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provision(s):</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, cease accepting and/or disposing of waste at the Site.</li> <li>2. Within 60 days, remove all waste from the Site and dispose of it at an authorized facility.</li> <li>3. Within 75 days, submit written certification demonstrating compliance.</li> </ol>



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision January 29, 2008

<b>DATES</b>	Assigned	22-Jan-2008	Screening	4-Feb-2008	EPA Due	
	PCW	4-Feb-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Ernesto Siller
Reg. Ent. Ref. No.	RN105194641
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	35352	No. of Violations	1	
Docket No.	2008-0231-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	John Shelton	
Multi-Media		EC's Team	Enforcement Team 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,000</b>
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**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	5% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$50</b>
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Notes	The Respondent received one NOV with same or similar violations.
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<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes	The Respondent does not meet the good faith criteria.
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	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
Total EB Amounts	\$1,097	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$22,950		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,050</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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<b>Final Penalty Amount</b>	<b>\$1,050</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,050</b>
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$1,050</b>
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Screening Date 4-Feb-2008

Docket No. 2008-0231-MSW-E

PCW

Respondent Ernesto Siller

Policy Revision 2 (September 2002)

Case ID No. 35352

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN105194641

Media [Statute] Municipal Solid Waste

Enf. Coordinator John Shelton

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The Respondent received one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

<b>Screening Date</b> 4-Feb-2008		<b>Docket No.</b> 2008-0231-MSW-E		<b>PCW</b>
<b>Respondent</b> Ernesto Siller		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 35352		<small>PCW Revision January 29, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN105194641				
<b>Media [Statute]</b> Municipal Solid Waste				
<b>Enf. Coordinator</b> John Shelton				
<b>Violation Number</b>	<input type="text" value="1"/>			
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 330.15(c)"/>			
<b>Violation Description</b>	<div style="border: 1px solid black; padding: 5px;"> <p>Failed to prevent the disposal of municipal solid waste at an unauthorized facility, as documented during an investigation conducted on November 19, 2007. Specifically, approximately 850 cubic yards of construction debris including lumber, shingles, sheetrock and steel reinforced concrete was disposed of at the unauthorized site.</p> </div>			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>

  

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
<b>OR</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> </tr> <tr> <td style="text-align: center;"><b>Release</b></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>					<b>Harm</b>			<b>Release</b>	Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	x	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Harm</b>																		
	<b>Release</b>	Major	Moderate	Minor																
	Actual	<input type="text"/>	<input type="text"/>	x																
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
<b>Percent</b> <input type="text" value="10%"/>																				
<b>&gt;&gt; Programmatic Matrix</b>																				
<b>OR</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>					Major	Moderate	Minor	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>								
		Major	Moderate	Minor																
	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>																
	<b>Percent</b> <input type="text" value="0%"/>																			
<div style="border: 1px solid black; padding: 5px;"> <p><b>Matrix Notes</b> Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.</p> </div>																				
<b>Adjustment</b>				<input type="text" value="\$9,000"/>																
				<input type="text" value="\$1,000"/>																

  

<b>Violation Events</b>				
<b>Number of Violation Events</b> <input type="text" value="1"/>		<input type="text" value="77"/> <b>Number of violation days</b>		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,050"/>	
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
<p>One quarterly event is recommended from the investigation date of November 19, 2007 to the screening date of February 4, 2008</p>				

  

<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$1,097"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,050"/>
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$1,050"/>

## Economic Benefit Worksheet

**Respondent:** Ernesto Siller  
**Case ID No.:** 35352  
**Reg. Ent. Reference No.:** RN105194641  
**Media:** Municipal Solid Waste  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$22,950	19-Nov-2007	2-Nov-2008	1.0	\$1,097	n/a	\$1,097
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to transport and dispose of approximately 850 cubic yards of municipal solid waste to an authorized landfill site (\$27.00 per cubic yard). The Date Required is the investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$22,950

**TOTAL**

\$1,097

# Compliance History

Customer/Respondent/Owner-Operator: CN603171034 SILLER, ERNESTO Classification: AVERAGE Rating: 3.00

Regulated Entity: RN105194641 SILLER PROPERTY Classification: AVERAGE Site Rating: 3.00

ID Number(s): MUNICIPAL SOLID WASTE NON ID NUMBER 455150158

Location: Legal Description of property in Los Fresnos, Texas: Rating Date: September 01 07 Repeat  
FRESNOS LAND & IRRG CO SUBDIVISION 36.26 ACRES Violator: NO  
OUT OF BLK 218.

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: January 22, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 22, 2003 to January 22, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: John Shelton Phone: (512) 239-2563

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 01/17/2008 (609337)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
Date: 06/01/2007 (556071)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)  
Description: Failure to prevent, cause, suffer, allow or permit the collection, storage, transportation, processing, or disposal of municipal solid waste, at an unauthorized disposal site.
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ERNESTO SILLER  
RN105194641

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-0231-MSW-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ernesto Siller ("Mr. Siller") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Siller appear before the Commission and together stipulate that:

1. Mr. Siller owns property located approximately one mile south of the intersection of Farm-to-Market Road 1847 and State Highway 100, legally described as Fresnos Land & Irrg Co Subdivision 36.6 Acres out of Blk 218, Los Fresnos, Cameron County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Mr. Siller agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Siller is subject to the Commission's jurisdiction.
4. Mr. Siller received notice of the violations alleged in Section II ("Allegations") on or about January 20, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Siller of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Siller has paid one thousand fifty dollars (\$1,050.00) of the administrative penalty.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Siller have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Siller has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

1. During an investigation conducted on November 19, 2007, a TCEQ Harlingen Regional Office investigator documented that Mr. Siller violated 30 TEX. ADMIN. CODE § 330.15(c) by failing to prevent the disposal of municipal solid waste at an unauthorized facility. Specifically, approximately 850 cubic yards of construction debris, including lumber, shingles, sheetrock, and steel reinforced concrete, was disposed of at the Site.
2. Mr. Siller received notice of the violation on or about January 20, 2008.

## **III. DENIALS**

1. Mr. Siller generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Mr. Siller pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Mr. Siller's compliance with all the terms and conditions set forth in this Agreed Order resolve only the

Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Ernesto Siller, Docket No. 2008-0231-MSW-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Mr. Siller shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order, Mr. Siller shall cease accepting and/or disposing of any additional waste at the Site;
- b. Within 60 days after the effective date of this Agreed Order, Mr. Siller shall remove all waste from the Site and dispose of it at an authorized facility; and
- c. Within 75 days after the effective date of this Order, Mr. Siller shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Mr. Siller shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Waste Section Manager  
Texas Commission on Environmental Quality  
1804 Jefferson Avenue  
Harlingen, Texas 79550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Siller. Mr. Siller is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If Mr. Siller fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Siller's failure to comply is not a violation of this Agreed Order. Mr. Siller shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Siller shall notify the Executive Director within seven days after Mr. Siller becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Siller shall be made in writing to the Executive Director. Extensions are not effective until Mr. Siller receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Siller in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be

**Ernesto Siller**

**DOCKET NO. 2008-0231-MSW-E**

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transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Siller, or three days after the date on which the Commission mails notice of the Order to Mr. Siller, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Bergner Pennington

For the Executive Director

10/16/08

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution

Siller  
Signature – Ernesto Siller

8/14/2008  
Date